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CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY: *JP*

DEPUTY

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16 UNITED STATES DISTRICT COURT  
17 SOUTHERN DISTRICT OF CALIFORNIA  
18 SAN DIEGO DIVISION

19 FORTUNE GROWERS, LLC, a  
20 Nevada limited liability company,

21 Plaintiff,

22 vs.

23 SOUTHERN CITRUS, INC., a  
24 California corporation; HANA GIBO,  
25 an individual; and SABA  
26 YOUNKHANNA, an individual,

27 Defendants.

28 Case No.: CV 2088 - JAH CAB

PLAINTIFF'S MOTION FOR  
ISSUANCE OF PRELIMINARY  
INJUNCTION AND MOTION TO  
CONSOLIDATE THE TRIAL ON  
THE MERITS WITH HEARING  
ON PRELIMINARY INJUNCTION

27 Plaintiff, Fortune Growers, LLC ("Fortune Growers"), by and through its  
28 undersigned counsel, requests this Honorable Court to issue a Preliminary  
Injunction enforcing the statutory trust pursuant to Section 5(c) of the Perishable

1 Agricultural Commodities Act, 7 U.S.C. §499e(c)(4) by segregating all trust  
2 assets of Southern Citrus, Inc. ("Southern Citrus"). This Motion is supported by  
3 the Affidavit of Luis Solarte, Managing Member of Fortune Growers, and the  
4 Memorandum of Points and Authorities, each of which has been filed  
5 contemporaneously with this Motion.

6  
7 Moreover, Plaintiff requests that this Honorable Court consolidate the  
8 hearing on the Motion for a Preliminary Injunction with a trial on the merits  
9 pursuant to Rule 65(a)(2), Fed.R.Civ.P., which provides that:

10  
11 Before or after the commencement of the hearing of an  
12 application for a preliminary injunction, the court may  
13 order the trial of the action on the merits to be advanced  
14 and consolidated with the hearing of the application.

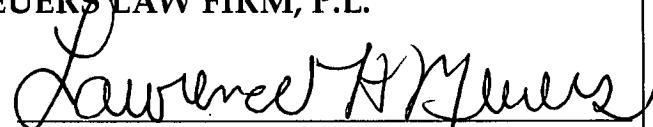
15 The District Court has discretion to determine whether consolidation of  
16 the Preliminary Injunction hearing with trial on the merits is appropriate. See  
17 Air Line Pilots Assn., Int'l v. Alaska Airlines, Inc., 898 F.2d 1393 (9<sup>th</sup> Cir., 1990).  
18 Plaintiff submits that consolidation in this case is appropriate with respect to its  
19 claims under PACA, and that consolidation will serve the interests of judicial  
20 economy for the Court and the parties.

21  
22  
23 WHEREFORE, Plaintiff requests that this Honorable Court enter a  
24 Preliminary Injunction enforcing the statutory trust pursuant to Section 5(c) of  
25 the Perishable Agricultural Commodities Act, 7 U.S.C. §499e(c)(4), by  
26 segregating all trust assets of RLB, and that this Honorable Court enter an Order

1 consolidating the hearing on the Preliminary Injunction with trial on the merits  
2 pursuant to Rule 65 (a)(2), Fed.R.Civ.P.

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4 Respectfully submitted this 26<sup>th</sup> day of October, 2007.

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By: 

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